

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 37 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

UMEDBHAI SAMA

Versus

STATE OF GUJARAT

Appearance:

1. Special Criminal Application No. 37 of 2002
MR MM TIRMIZI for Petitioner No. 1
MR S.S.PATEL, ADDL.PUBLIC PROSECUTOR for Respondent No. 1
RULE SERVED BY DS for Respondents No. 2-3
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CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 01/02/2002

ORAL JUDGEMENT

The petitioner by this petition under Article 226
of the Constitution of India seeks to challenge an order

passed by Sub Divisional Magistrate, Viramgam, Division Ahmedabad dated 18.6.2001, passed in exercise of powers under Section 56 of the Bombay Police Act, externing the petitioner for a period of two year from the territories of Ahmedabad Rural, Ahmedabad City, Surendranagar, Gandhinagar and Kheda Districts on the grounds stated in the petition. Before passing the order, notice under Section 59 of the Bombay Police Act was issued, calling upon the petitioner to show cause as to why he should not be externed from these Districts. The order passed by the Sub Divisional Magistrate in exercise of powers under Section 56(b) came to be challenged before the Appellate Authority under Sec. 60 of the Bombay Police Act. The said appeal came to be dismissed by an order dated Sept. 11, 2001. Hence, the externee has preferred this petition challenging those orders.

2. The only ground that was canvassed by learned Advocate Mr. Verma is that the externing authority has externed the petitioner from contiguous districts without any material to indicate that he is likely to pursue his activities in those areas or from those areas and the order therefore would stand vitiated.

3. The petition is opposed to by learned APP Mr. S.S. Patel.

4. Having regard to the contention raised before this Court, it is amply clear from the show cause notice that activities of the externee are restricted to village Vekharia. There is no material to indicate that he has connections, roots or moorings in the areas of contiguous districts from which he is externed. The authority has however externed the petitioner from these districts also. There is no discussion or reasoning given in the order as to why the petitioner is required to be and is externed from the contiguous districts of Ahmedabad City, Surendranagar, Gandhinagar and Kheda. In view of the decision of this Court in Mustufamiya P. Seiyad Vs. State 1999 (1) GLH 913, this order could not have been passed and cannot be permitted to stand. The petition therefore deserves to be allowed.

5. The petition is allowed. Order dated 18.6.2001 passed by the externing authority against Shri Umedbhai Sama and order dated 11.9.2001 passed by the appellate authority, both are hereby quashed and set aside. Rule made absolute. Direct service permitted.

(A.L.Dave, J.)

*/Mohandas